

Remarks:

Reconsideration of the application is requested. Claims 1-24 remain in the application. Claims 1, 3-4, 9-10, 15, and 20 have been amended.

Claim 9 was amended to correct a typographical error. A period has been added to the end of the claim. The amendment is not made for the statutory requirements of a patent relating to the prior art.

In the second paragraph on page 2 of the Office action, the Examiner rejected claims 1-3, 7-9, and 12-22 as being fully anticipated by Taylor '643 under 35 U.S.C. § 102(b). The rejection has been noted and the claims have been amended in an effort to define more clearly the invention of the instant application. Support for the changes is found in Fig. 1 of the specification.

Before discussing the prior art in detail, a brief review of the invention as claimed is provided. Amended claim 1 calls for, *inter alia*, a shoulder orthosis device including the following features:

a lower arm section configured for receiving the lower arm portion, the lower arm section configured, dimensioned, and arranged for maintaining the lower arm portion substantially orthogonal to the upper arm portion; and

a drive member operably connected to the lower arm section ...,

said lower arm section holding the hand of the patient with the palmar surface of the hand of the patient coplanar with said drive member axis .... (Emphasis added by Applicant.)

Claim 15 contains similar features as claim 1.

Claims 3 and 20 further explain how the hand cuff hold the hand of the patient relative to the drive member axis.

In contrast, Taylor '643 teaches a Continuous Passive Motion Exercise Device where the palmar surface of the user's hand is orthogonal (i.e. not coplanar) with the drive member axis.

In addition, the orientation of the hand according to the invention is not obvious in light of Taylor '643 because orienting the palmar surface parallel to the drive member axis allow the patient to be stretched in the direction where a patient's strength and motion are at a maximum.

In the first full paragraph on page 3 of the Office action, the Examiner indicated that claims 4-5 and 10-11 were objected to as being dependent on a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening base claims. Accordingly, claim 4 has been rewritten as an independent claim. Claim 5 depends on claim 4. Likewise, claim 10 has been rewritten as an independent claim, claim 11 depends on claim 10.

The Examiner that claims 23-24 were allowable in the second full paragraph on page 3 of the Office action.

In view of the foregoing, reconsideration and allowance of claims 1-24 are solicited. In the event the Examiner should still find any of the claims to be unpatentable, please telephone counsel so that patentable language can be substituted.

If an extension of time for this paper is required, petition for extension is herewith made.

Appl. No. 10/760,598  
Amendment Dated November 19, 2008  
Reply to Office Action of August 19, 2008

No fee is believed due. However, please charge any required fee (or credit any overpayments of fees) to the Deposit Account of the undersigned, Account No. 50-0601 (Docket No. 781-A04-006-3).

Respectfully submitted,

/Loren D. Pearson/

Loren Donald Person, Reg. No. 42,987  
Paul Bianco, Reg. No. 43,500

Customer Number: 33771

FLEIT GIBBONS GUTMAN BONGINI & BIANCO, P.L.  
21355 East Dixie Highway  
Suite 115  
Miami, FL 33180  
Tel: 305-830-2600  
Fax: 305-830-2605  
e-mail: LPearson@FGGBB.com